

SIXTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
Second Regular Session )

Office of the Secretary

15 JAN -5 P3:56

SENATE  
S. No. 2554

Office of the Secretary *Ji*

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Introduced by Senator Miriam Defensor Santiago

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AN ACT  
AMENDING REPUBLIC ACT NO. 386, ALSO KNOWN AS THE CIVIL  
CODE, ARTICLE 941, ON LEGACIES AND DEVICES

EXPLANATORY NOTE

In Article 941 of the Civil Code, a legacy of generic personal property is valid even if nothing of the same kind exists in the estate. If the said property does not form part of the estate, the administrator or executor must acquire the property subject of the legacy.

A different set of rules applies for devises of indeterminate real property. The validity of a devise of indeterminate real property depends on the existence of said property. The administrator is not obliged to acquire the property if it does not form part of the estate.

The difference in rules is a result of an adaptation of Roman law which treats personal property with more liberality. This rationale is no longer relevant simply because personal property is easier to acquire and dispose of. Hence, there is no compelling reason to apply a different set of rules for a legacy of general personal property on the one hand and a devise of indeterminate real property on the other hand.

It is believed that the same rules must apply to legacies and devises, such that a legacy or devise should only be valid if the property given exists in the estate of the decedent. This bill seeks to impose such a rule.<sup>1</sup>

*Miriam Defensor Santiago*  
MIRIAM DEFENSOR SANTIAGO  
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<sup>1</sup> This bill was originally filed during the Thirteenth Congress, First Regular Session.

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1 AN ACT  
2 AMENDING REPUBLIC ACT NO. 386, ALSO KNOWN AS THE CIVIL  
3 CODE, ARTICLE 941, ON LEGACIES AND DEVISES

*Be it enacted by the Senate and the House of Representatives of the  
Philippines, in Congress assembled:*

4 SECTION 1. The Civil Code, Article 941, is hereby amended to read as  
5 follows:

6 "Article 941. A legacy of generic personal property shall  
7 be valid [even] ONLY if there be [no things] PERSONAL  
8 PROPERTY of [the same] ITS kind in the estate.

9 A devise of indeterminate real property shall be valid  
10 only if there be immovable property of its kind in the estate.

11 The right of choice shall belong to the executor or  
12 administrator who shall comply with the legacy OR DEVISE  
13 by the delivery of [a thing] PROPERTY OF THE KIND  
14 DESIGNATED IN THE LEGACY OR DEVISE which is  
15 neither of inferior nor of superior quality."

1           SECTION 2. *Separability Clause.* – If any provision or part hereof is held  
2 invalid or unconstitutional, the remainder of the law or the provision not otherwise  
3 affected shall remain valid and subsisting.

4           SECTION 3. *Repealing Clause.* – Any law, presidential decree or issuance,  
5 executive order, letter of instruction, administrative order, rule or regulation  
6 contrary to, or inconsistent with, the provision of this Act is hereby repealed,  
7 modified or amended accordingly.

8           SECTION 4. *Effectivity Clause.* – This Act shall take effect fifteen (15)  
9 days after its publication in at least two (2) newspapers of general circulation.

Approved,

/apm12182014